

# **Exhibit D**

**Kevin Burke**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>In re Terrorist Attacks on September 11, 2001</b>	<b>03-md-1570 (GBD)(SN) ECF Case</b>
<b>This document relates to: <i>Rodriguez, et al. v. The Islamic Republic of Iran</i></b>	<b>18-cv-12347 (GBD)(SN) ECF Case</b>

**DECLARATION OF KEVIN BURKE**

I, Kevin Burke, pursuant to 28 U.S.C. § 1746, do hereby declare under penalty of perjury as follows:

1. I am more than eighteen (18) years of age and I have personal knowledge of and am competent to testify to the matters stated in this declaration. I am a citizen of the United States. I was a citizen of the United States on September 11, 2001.

2. On September 11, 2001, I was present in New York City immediately after the terrorist attacks on the World Trade Center (WTC). I was a Lieutenant with the Suffolk County Police Department in Yaphank, New York. I was responsible for a Specialized Emergency Services Unit which was charged with, among other things, responding to bomb threats and situations requiring the use of special weapons and tactics. On September 11, 2001, within thirty minutes of the attacks, my unit was deployed to assist the New York Police Department (NYPD) at the WTC in detecting, handling, and disarming explosive devices. The facts surrounding the attacks and the continuing threat in Lower Manhattan were still unclear when we were deployed. We were staged at Floyd Bennett Field in southeast Brooklyn to coordinate our operation with NYPD and other law enforcement and emergency response units prior to entering the city.

3. As it became apparent that the continuing threat at the WTC was not from additional explosive devices, our role in the response changed. In the early afternoon of September

11, we were escorted down to the WTC and assigned the task of setting up a temporary morgue for the bodies of victims recovered during the ongoing rescue effort. Both WTC towers had collapsed by the time we arrived. We initially established the temporary morgue in the atrium, or what had been the atrium of the WTC. The area was enveloped in a fog of debris and ash, floating down like snow. We examined the integrity of the remaining structure and removed large amounts of debris to set up the space to serve as a morgue. The atmosphere was still chaotic hours after the attacks. It soon became clear that no bodies were being recovered and we were reassigned to assist with site security and to help with the immediate recovery effort. I assigned part of my unit to the security detail and I led the rest to what remained of the WTC.

4. We walked through knee-deep pulverized concrete and ash, removing debris while looking and listening for anyone who might have miraculously survived. The area was still burning. In addition to the smoke around us, a cloud of vapor was rising from the ground. From time to time, we heard loud noises from beneath us followed by a large puff of vapor coming out of the ground. The environment was caustic. The smell was distinct, but not easy to describe. It lingered long after I left the site. As we searched through the devastation, we saw all types of debris from the buildings including scraps of paper from the offices that had been destroyed. We found no survivors and none of the victim's bodies intact, only human remains. During this time, one distinct memory I have is seeing what appeared to be a human heart laying on the ground.

5. I remained with my unit at the site of the WTC for days after the attacks. The city was closed off. Recovery equipment was coming in, nothing was going out. A command center was set up by NYPD in a school nearby and we reported there each day for our assignments. We were assigned to a section of the site to search each day. Trucks and excavating equipment began to be brought in and, after three days, helicopters were also brought in and my unit began to rotate

out. The helicopters could only carry four people at a time so we rotated out over the next two days. I left the WTC site for the first time five days after the attacks. Over the next ten to twelve days, we worked twelve-hour shifts at Ground Zero. My recollection is that this lasted until mid-September. We left the site when the heavy equipment began taking over the removal effort. Subsequently, my unit assisted in the screening debris being brought from Ground Zero to Fresh Kills Landfill to examine it for explosive material and any potential evidence. I sent teams from my unit, rotating in and out of landfill, until late December, 2001. I only recall personally being at the site on one occasion during this time.

6. I knew that being exposed to the ash, smoke, and toxic fumes would be a problem for those of us who were there. We had no protective equipment while we were engaged in the rescue and recovery work at Ground Zero other than paper masks given to us on the second or third day. The masks were inadequate to filter out the level of potentially harmful substances in the air we were breathing. When I arrived home after five days at the site, my clothes were saturated with ash and dust. I had received hazardous materials training so I bagged my uniform rather than try to clean it.

7. The first indication I had that the exposure to the substances in the air at the WTC site may have adversely affected my health was experiencing shortness of breath while running. This began a few months after 9/11 and seemed to get worse over time. It was sometime 2003 when I decided to sign up for medical monitoring through the World Trade Center Health Program (WTCHP). By that time, I was experiencing more severe shortness of breath with exertion. The WTCHP medical examination included several tests and procedures including a pulmonary function test. I was diagnosed with asthma and prescribed an inhaler for acute episodes. Prior to



my exposure on 9/11 I had no pulmonary problems and had never had any suggestion by any physician that I had asthma.

8. I have continued to be monitored annually by the WTCHP and I have had increasing difficulty with my breathing which has limited my mobility and restricted my physical activities. Approximately two years ago I felt as if my condition was deteriorating further. I am now under the care of a pulmonologist in addition to my regular monitoring by the WTCHP. I have had other medical issues since my exposure to the toxins at Ground Zero involving my nose, throat, and digestive system, as well as my lungs. These conditions have contributed to the development of sleep apnea which creates additional complications and health risks.

9. My medical condition, as diagnosed by the WTCHP, was provided to the Victim Compensation Fund (VCF). The VCF found that I was eligible for compensation based on the information it received for injuries including chronic rhinitis, sinusitis, esophageal reflux, extrinsic and unspecified asthma, and obstructive sleep apnea. A true and correct copy of the VCF eligibility determination letter documenting the physical injuries I suffered from the attacks on 9/11 is submitted with this declaration as part of this exhibit.

I DECLARE UNDER PENALTY OF PERJURY that the foregoing is true and correct.

DATED this 23<sup>rd</sup> day of April, 2025.

  
Declarant Kevin Burke



September 11th  
Victim Compensation Fund

July 22, 2019

KEVIN BURKE  
[REDACTED]

Dear KEVIN BURKE:

The September 11th Victim Compensation Fund ("VCF") has reviewed your Eligibility Form. Your claim number is VCF0113162. Your Eligibility Form was determined to be substantially complete on July 19, 2019. As stated in the regulations and on the claim form, by filing a substantially complete Eligibility Form you have waived your right to file or be a party to a September 11th-related lawsuit.

**The Decision on your Claim**

The VCF has determined that you meet the eligibility criteria established in the statute and regulations. Based on the information you submitted and information the VCF has received from the World Trade Center ("WTC") Health Program, you have been found eligible for the following injuries:

- CHRONIC RHINITIS AND RELATED PHYSICAL CONDITIONS: OBSTRUCTIVE SLEEP APNEA
- ESOPHAGEAL REFLUX AND RELATED PHYSICAL CONDITIONS: OBSTRUCTIVE SLEEP APNEA
- EXTRINSIC ASTHMA
- EXTRINSIC ASTHMA, UNSPECIFIED
- UNSPECIFIED ASTHMA
- UNSPECIFIED SINUSITIS AND RELATED PHYSICAL CONDITIONS: OBSTRUCTIVE SLEEP APNEA

Please note that there are several reasons why an injury that you think should be eligible is not listed above. For non-traumatic injuries, the name of the injury is based on the information provided by the WTC Health Program and there may be different names for the same injury. Additionally, your injury may not be listed if it was only recently certified for treatment by the WTC Health Program.

If in the future the WTC Health Program should notify you that a condition previously found eligible is no longer certified, you must inform the VCF as this may affect your eligibility status and/or the amount of your award.

**What Happens Next**

**If you have been certified for treatment by the WTC Health Program for a condition not listed above, you should amend your claim. Please see the VCF website for details on how to**



September 11th  
Victim Compensation Fund

amend your claim. The VCF will review the new information and determine if it provides the basis for a revised decision.

**If you believe you have eligible injuries that are not being treated by the WTC Health Program** and you would like the VCF to consider those injuries before calculating your award, you should amend your claim. If you choose to amend your claim, you must first seek certification for the condition(s) from the WTC Health Program. Seeking certification for your condition provides the VCF with the necessary evidence that the condition is eligible for compensation. Please note, however, that because additional certifications do not necessarily impact the amount of your award, we recommend that you wait to receive your award letter to determine whether to seek certification for any additional condition(s).

**If you do not have injuries other than those listed above**, you should submit your Compensation Form and required supporting materials. If you have already submitted your Compensation Form, you do not need to take any action at this time unless you receive a request from the VCF for missing information. The VCF will calculate the amount of any compensation based on the conditions listed above after all compensation-related documents are submitted.

If you have questions about the information in this letter or the claims process in general, please call our toll-free Helpline at 1-855-885-1555. For the hearing impaired, please call 1-855-885-1558 (TDD). If you are calling from outside the United States, please call 1-202-514-1100.

Sincerely,

Rupa Bhattacharyya  
Special Master  
September 11th Victim Compensation Fund

cc: DANIEL HANSEN, ESQ.